

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 14, 2013

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2012AP1358
STATE OF WISCONSIN**

Cir. Ct. No. 2012CV111

**IN COURT OF APPEALS
DISTRICT III**

LYNETTE WILLIAMS,

PETITIONER-RESPONDENT,

V.

JAMES T. BRUDOS,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Trempealeau County:
JOHN A. DAMON, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve
Judge.

¶1 PER CURIAM. James Brudos appeals an injunction enjoining him from having contact with Lynette Williams. Brudos argues the evidence is insufficient to support the injunction. We reject Brudos's arguments and affirm the order.

BACKGROUND

¶2 In May 2012, Williams petitioned for a harassment injunction against Brudos pursuant to WIS. STAT. § 813.125 (2011-12).¹ The petition alleged that Brudos, a Galesville police officer, engaged in multiple instances of harassing conduct after Williams filed a complaint against him with the police chief and the city council. After a hearing, the circuit court granted an injunction, and this appeal follows.²

ANALYSIS

¶3 We review a circuit court’s decision whether to grant a harassment injunction for an erroneous exercise of discretion. *Welytok v. Ziolkowski*, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359. “We may not overturn a discretionary determination that is demonstrably made and based upon the facts of record and the appropriate and applicable law. Also, because the exercise of discretion is so essential to the [circuit] court’s functioning, we generally look for reasons to sustain discretionary rulings.” *Id.*, ¶24.

¶4 Under WIS. STAT. § 813.125(4), a court may grant an injunction ordering a person to cease or avoid the harassment of another if it finds “reasonable grounds to believe” that the person has violated WIS. STAT. § 947.013. A violation of § 947.013(1m)(b) occurs when, with the intent to harass or

¹ All references to the Wisconsin Statutes are to the 2011-12 version.

² The four-year injunction ordered Brudos to cease or avoid harassing Williams; avoid Williams’s residence and/or any premises temporarily occupied by her; avoid contact that harasses or intimidates Williams; and avoid driving on the city block where Williams resides unless “on [a] police matter.”

intimidate another person, one “engages in a course of conduct or repeatedly commits acts [that] harass or intimidate the person and ... serve no legitimate purpose.” Our supreme court has further defined “harass” under § 813.125 according to its common dictionary definition as “to worry and impede by repeated attacks, to vex, trouble or annoy continually or chronically, to plague, bedevil, or badger.” *Bachowski v. Salamone*, 139 Wis. 2d 397, 407, 407 N.W.2d 533 (1987) (citation omitted). It also applied the common dictionary definition of “intimidate” as “to make timid or fearful.” *Id.*

¶5 At a hearing on Williams’s petition, she testified that in January 2012, she drove her car to the wrong side of the road in front of her house to retrieve her mail. Brudos, who was off duty at the time, drove by and mouthed, “What the fuck.” Williams complained to the police chief and a city councilperson because Brudos “swore at [her]” and “made a gesture.”

¶6 Williams testified that during subsequent visits to the local grocery store, Brudos glared at her with a “[beet] red” face on one occasion and walked by making a “pfft” sound on another. While at a gas station convenience store, Brudos walked in and looked at her, then laughed, smiled and smirked. According to Williams, Brudos took a couple of steps before he stopped, turned around and repeated this conduct. Brudos then walked to another part of the store and stared at Williams until she left the store. Williams further testified that while attending her daughter’s basketball game, Brudos stood at the gymnasium door and glared at her through the window. When at a sporting event with her husband in Madison, Brudos walked by stating, “Oh, there’s my favorite fuckin’ people.”

¶7 Williams also testified that while walking in her neighborhood, Brudos drove past her six times in ten minutes. On another occasion, Williams

noticed Brudos's vehicle parked on the street two houses down from her house. When her husband arrived home approximately one hour later, he questioned why Brudos was standing in front of their house. As Williams went outside to take a picture, Brudos left. Williams testified that she attempts to avoid any contact with Brudos, and feels intimidated by his conduct.

¶8 During his testimony, Brudos opined that Williams was attempting to get him fired so her husband, a part-time Galesville police officer, could obtain full-time employment with the police department. Brudos also offered explanations for some, but not all, of the conduct Williams recounted—specifically omitting any explanation for staring at her in the gas station or making the “my favorite fuckin’ people” comment in Madison. In any event, the court found Williams to be credible and the circuit court, acting as factfinder, is the “ultimate arbiter of the credibility of the witnesses.” *Bank of Sun Prairie v. Opstein*, 86 Wis. 2d 669, 676, 273 N.W.2d 279 (1979). The undisputed incidents alone provide “reasonable grounds to believe” Brudos violated WIS. STAT. § 947.013(1m)(b). When considering his cumulative conduct, there was more than enough evidence to support the injunction.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

